

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BRANDON LEE JONES,

Defendant-Appellant.

UNPUBLISHED

October 21, 2008

No. 279248

Wayne Circuit Court

LC No. 07-005818-01

Before: Servitto, P.J. and Donofrio and Fort Hood, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial convictions of assault with intent to do great bodily harm, MCL 750.84, felonious assault, MCL 750.82, discharging a weapon at a dwelling, MCL 750.234b, and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. Because there was sufficient evidence from which a jury could find guilt on the presented charges beyond a reasonable doubt, we affirm.

Defendant's sole issue on appeal is that there was insufficient evidence to support his conviction of assault with intent to do great bodily harm. When reviewing a claim of insufficient evidence, this Court reviews the record de novo. *People v Wilkens*, 267 Mich App 728, 738; 705 NW2d 728 (2005). This Court reviews the evidence in the light most favorable to the prosecution to determine whether it would justify a rational jury's finding that the essential elements of the crime were proven beyond a reasonable doubt. *Id.*

Defendant argues his claim of insufficient evidence is substantiated by the lack of testimony connecting his actions with the injuries suffered by the victim, Terrance Johnson. Defendant points out that there were other armed individuals in the vicinity who could have been responsible for Johnson's gunshot wound. In fact, one of these individuals was outside the back of the residence, and fired through the back window. Additionally, defendant insists there was insufficient evidence of his intent because intent cannot be supplied by the mere fact of any injury, and that bringing out prior inconsistent statements made to police successfully impeached the testimony of prosecution witnesses.

The elements of assault with intent to do great bodily harm are: "(1) an attempt or threat with force or violence to do corporal harm to another (an assault), and (2) an intent to do great bodily harm less than murder." *People v Brown*, 267 Mich App 141, 147; 703 NW2d 230 (2005), quoting *People v Parcha*, 227 Mich App 236, 239; 575 NW2d 316 (1997). Great bodily

harm is defined as “a physical injury that could seriously and permanently harm the health or function of the body.” CJI2d 17.7(4). “Assault with intent to do great bodily harm is a specific intent crime,” and the trier of fact may infer intent from the defendant’s conduct. *Parcha, supra* at 239. “Because of the difficulty of proving an actor’s state of mind, minimal circumstantial evidence is sufficient to establish the element of intent.” *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999). All conflicts in the evidence must be resolved in favor of the prosecution. *Id.* It is solely within the province of the trier of fact to weigh the evidence and assess the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748, amended 441 Mich 1201 (1992). Therefore, “it is for the trier of fact, not the appellate court, to determine what inferences may be fairly drawn from the evidence and to determine the weight to be accorded those inferences.” *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002).

This appeal focuses on whether there was sufficient evidence to connect defendant to the assault of Johnson and whether there was sufficient evidence to show defendant had the requisite intent. When viewed in the light most favorable to the prosecution the evidence shows that defendant approached a corner residence on Bessemore Street carrying a shotgun. This caused the group of people gathering outside to head inside the house. Multiple witnesses testified that defendant went to the side of the residence and pointed his gun at the side window of the residence. One of these witnesses, Amir Collins, testified that he saw defendant “click” the gun and fire it through the side window. The jury could draw a reasonable inference that defendant knew the residence was occupied because he could see everyone head into the house as he approached. A reasonable jury could also infer that pointing a gun at the window of an occupied dwelling and firing constituted an attempt or threat with force or violence to do corporeal harm to another (assault).

Additionally, as a result of the gunshot, the side window was damaged and Johnson sustained a bullet wound to the head. Defendant argues that there were other armed individuals in the vicinity who could have been responsible for Johnson’s injuries. However, the evidence showed that Collins witnessed defendant shoot through the side window as he was headed for the basement stairs. Johnson was hit as he was also headed for the basement stairs and there was evidence of blood by the stairs. A reasonable jury could conclude that the shot that hit Johnson came from defendant through the side window that was near the basement stairs. Because “[a] person may have that state of mind without directing it at any particular victim,” a reasonable jury could also conclude that firing into an occupied residence demonstrated an intent to commit great bodily harm. *People v Abraham*, 234 Mich App 640, 658; 599 NW2d 736 (1999).

Defendant’s reliance on contradictory testimony and questions of witness credibility to demonstrate insufficiency of evidence is misguided. Witness credibility and the weight accorded to evidence are questions for the jury and any conflict is resolved in the prosecution’s favor. *Hardiman, supra* at 428. Defendant points out that Collins acknowledged he had originally not told police that defendant had fired his gun. However, Collins testified on redirect that he told the police in a later statement that defendant had fired. Regardless, the impeaching evidence does not affect the analysis of the case. Credibility and the weight of the evidence are questions

for the trier of fact. There is sufficient evidence to support defendant's conviction of assault with intent to commit great bodily harm.

Affirmed.

/s/ Deborah A. Servitto

/s/ Pat M. Donofrio

/s/ Karen M. Fort Hood